

12 April 1974

Approved For Release 2001/09/07 : CIA-RDP76M00527R000700120004-7

TO: LLM *N*  
GLC

Oliver of OMB had called early in March and given us orally a number of changes to our proposed report on S. 2321 which limits the tenure of the DCI. He then said a written report would be forthcoming.

George Gilbert called yesterday. No written report is being sent. Gilbert cleared our report if we concur in the changes previously suggested by Oliver. The changes are noted in the attached draft. I have keyed the rationale for the changes to a memorandum of 7 March which I prepared after Oliver's call.

I see no objections to the changes and if you approve, I will clear with Warner and finalize for resubmission to the Director. Attached is proposed note from you to the Director.

*GLC - I have no <sup>real</sup> problems with the first three - (see Prior report) but as PLC tells me, WSC is sending our report, then recommend change 4 to simply "we defer to the views of the WSC." - *part*  
*PLC**

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*language is weak, formally, set, adm. up for supporting (over)*

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Note from Cary to DCI:

Attached for your approval and signature is a revised report to Chairman Stennis on S. 2321, which places limitations on the tenure of the DCI. OMB, after coordination with NSC, recommends certain changes. The thrust of our position is unchanged.

OMB and NSC suggest only one significant change (page 2, para 2 of letter) that is we specifically oppose section 2 of the bill which requires the President to authorize, in writing, every specific function or duty of the Agency. Previously, we deferred to NSC on this point (Tab A, page 2, para 2). In view of the strong support from OMB and NSC, we suggest you oppose this provision especially since you are the guy that would have to live under it.

LLM Comd.

proposition, rather than opposing it, because  
Cong. can argue - Gee fellows, we are only doing  
in statute what you say you are doing by  
Executive Action - we want to be sure it  
always is done that way -

P.S. Sorry to lose "political relevancy"  
point, but "Co' la politics"

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7 March 1974

MEMORANDUM FOR THE RECORD

SUBJECT: S. 2321, Limitation on Tenure of Directors of Central Intelligence

1. Jim Oliver, OMB, called and submitted the following changes and comments to our report to Chairman John C. Stennis (D., Miss.), Senate Armed Services Committee. The changes result from his discussion of our report with the NSC staff.

a. Page 1, Paragraph 3:

- (1) (1) Second sentence: strike "fixed term for the office" and substitute "statutory limitation on the tenure." The bill as written does not propose a specified term of office, but rather a limitation on the length of time that the office can be held.
- (2) (2) Omit the last sentence. The limitation is to avoid lengthy tenure by one individual; however, no political relevancy was intended nor should it be suggested.
- (3) (3) Make paragraph 3 the last sentence in paragraph 2, revising the first part of the sentence to read as follows: "The current law is well balanced, preserve ..." (rest of sentence is unchanged).

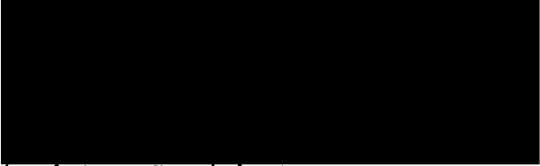
b. Page 2:

- (4) Strike the last sentence on the page. It is the opinion of the NSC that the Congress could constitutionally require the President to write out his specific instructions to the Agency. To avoid this question, and since the Agency does operate under written instructions, NSC

recommends a substitute sentence as follows:  
"We believe that this section would unnecessarily duplicate existing and acknowledged channels of responsibility and therefore we recommend against its enactment."

2. Oliver said that he will send the comments to us in writing for our consideration as to whether we wish to revise our report.

STATINTL



Assistant Legislative Counsel

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OLC:PLC:cg (7 Mar 74)

CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

Honorable John C. Stennis, Chairman  
Committee on Armed Services  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for the recommendations of this Agency with respect to S. 2321, which places limitations on the offices of the Director of Central Intelligence and the Deputy Director of Central Intelligence and modifies the language of section 102(d)(5) of the National Security Act of 1947.

The first section of S. 2321 limits the incumbency in the office of Director of Central Intelligence to eight years or eight years from enactment for the incumbent then in office. Section 102(a) of the 1947 Act now prohibits the simultaneous incumbency of the positions of Director and Deputy Director by commissioned officers of the armed services. The legislative history of this provision of law reflects an interest that the Agency's foreign intelligence product be independent of all policy and departmental influences.

The Director of Central Intelligence must have the full faith of the President to serve effectively as the President's principal foreign intelligence adviser and to assure that objective foreign intelligence information is brought to bear on developing national security policy. I do not believe that a <sup>statutory limitation on the tenure of</sup> ~~the office of~~ the Director of Central Intelligence is necessarily consistent with these fundamental objectives. <sup>Also, the proposed eight-year term, being</sup> ~~identical to the maximum term for the Presidency, suggests a~~ <sup>political relevancy for the office, which does not and should not exist.</sup>

<sup>The</sup> ~~current law as it relates to the office of~~ the Director of Central Intelligence is well balanced, preserving <sup>et</sup> ~~the~~ non-political and non-policy nature of the position, ~~while permitting~~

the President necessary discretion in the exercise of his appointment power and providing an opportunity for congressional participation under the advice and consent clause of the constitution.

The first section of S. 2321 also prohibits the simultaneous incumbency of the offices of the Director and Deputy Director by individuals who have been in the employ of the Agency within five years prior to appointment. Since the establishment of the Agency in 1947, three incumbents of these offices have had prior Agency employment, e.g., Mr. Dulles who was Deputy Director from 23 August 1951 to 26 February 1953 and Director from 26 February 1953 to 29 November 1961; Mr. Helms who was Deputy Director from 28 April 1965 to 30 June 1966 and Director from 30 June 1966 to 2 February 1973 and myself. In no case have the positions of Director or Deputy Director of Central Intelligence been occupied simultaneously by persons with prior Agency employment. CIA is not a policy oriented Agency, but does have specialized disciplines and distinctive management problems. It would appear that neither the President nor the Senate should be denied the opportunity of appointing and confirming those individuals who by training, dedication and experience may be best suited for the two top management positions in the Agency.

Section 2 of S. 2321 would require that the President specifically authorize in writing every specific function or duty authorized to be performed by the Agency "related to intelligence affecting the national security." Pursuant to current law (section 102(d)(5) of the National Security Act of 1947) this Agency performs such functions and duties "as the National Security Council may from time to time direct." The Agency undertakes no activity under the above quoted statutory provision except at the direction of the National Security Council, whose membership by statute includes the President of the United States, the Vice President and the Secretaries of State and Defense. ~~We defer to the National Security Council on the extent to which the proposed amendment possibly impinges upon the constitutional powers of the President.~~

④ We believe that this section would unnecessarily duplicate existing and acknowledged channels of responsibility and therefore we recommend against its enactment.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

STATINTL

  
W. E. Colby  
Director

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